

National Minimum Wage: Worker Checklist

If all of the following apply you are a 'worker' who is entitled to the National Minimum Wage (NMW).

- You have a **contract** or **other arrangement with the organisation which entitles you to a reward**. The contract does not have to be written: it may be implied (ie reflecting what happens in practice in the workplace) or oral (ie a spoken agreement of work in exchange for rewards).
- The reward is a **monetary payment** (ie cash or other form of financial payment) **or benefit in kind** and is not simply the reimbursement of genuine 'out-of-pocket' expenses.

Whilst a reward would typically involve your employer incurring a cost, the promise of a contract or future work could be considered a benefit in kind.

- You have **to turn up** for work even if you don't wish to.

In deciding if someone had to turn up for work a tribunal would look at factors such as whether the organisation can impose sanctions on you for failing to work, the organisation's grievance and disciplinary procedures, and whether you or the organisation are able to terminate the contract or arrangement by giving notice.

- Your employer has **to provide work** for you to do for the duration of the contract or arrangement (this would be the case even if you were doing 'casual work' or if you had a 'zero hours' contract).
- You have **to perform the work or services personally** and only have a limited right to send a substitute. Note: being allowed and able to

delegate to another member of staff does not amount to substitution or subcontracting out the work for NMW purposes.

- You are **not genuinely self-employed**

Calling yourself 'self-employed' or being referred to as 'self-employed' in agreements, do not necessarily mean that you are not entitled to the NMW. Similarly, being registered as self-employed for tax purposes does not necessarily make you self-employed for NMW purposes.

For further information read [Understanding your employment status](#) on the Directgov website.

When don't I have to be paid the national minimum wage?

The following are indicators that you are not entitled to the NMW:

- **You are a worker who is exempt from the NMW by law**

A limited number of groups are classified as workers but are exempt from the NMW under NMW law. This includes students undertaking work experience for no more than one year as a required part of a UK higher or further education course, some participants in specified government work or training schemes and voluntary workers. Further information on who is not entitled to the NMW can be found on the

[Business Link website](#).

You are performing work as a volunteer

In general, an individual working as a volunteer is someone who:

(1) undertakes work for a particular business or charitable organisation for no financial reward or benefit, aside from reimbursement of out-of-pocket expenses

(2) does not have to turn up for work if they don't want to. It is irrelevant whether the work is performed for altruistic or other reasons, eg to enhance the individuals CV.

Further information on volunteers can be found on the [Business Link website](#).

Your entitlement to the NMW – and your employer's liability to pay it – does not depend on your job title but on the contract or arrangement you have with the organisation. Further guidance on workers who are entitled to the NMW can be found at [Workers entitled to the National Minimum Wage](#) on the Directgov website. If in doubt, please call the Pay and Work Rights Helpline on 0800 917 2368 for free, confidential advice.

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